

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
TEXARKANA DIVISION

GERALD H. LOWERY, SR.

PLAINTIFF

v.

Civil No. 4:18-cv-04108

WARDEN JEFFIE WALKER, Miller County  
Detention Center (MCDC); NURSE  
S. KING, Head Nurse MCDC; NURSE  
CHELSEA FOSTER, MCDC; NURSE  
LONNIE REDFEARN, MCDC; DR.  
TIMOTHY REYNOLDS, MCDC;  
SHERIFF JACKIE RUNION; SOUTHERN  
HEALTH PARTNERS, INC.; and  
MILLER COUNTY

DEFENDANTS

**ORDER**

Currently before the Court is Plaintiff's Motion to Compel. (ECF No. 29). Defendants have filed Responses in opposition to the motion. (ECF Nos. 30, 31).

In his motion Plaintiff seeks production of "all corresponding audio/video to any grievances's including from 12\*9\*18 between 5:40 A.M. to 6:00 A.M." (ECF No. 29, p. 17). In their responses to Plaintiff's motion to compel, Defendants state no videos or audios exist and Plaintiff has been informed of this on several occasions. (ECF No. 30, 31 at p. 1).

Rule 34 of the Federal Rules of Civil Procedure provides for the production of documents and things within "the responding party's possession, custody or control." Fed. R. Civ. P. 34 (a)(1). Defendants cannot produce what does not exist. Accordingly, Plaintiff's Motion to Compel (ECF No. 29) is **DENIED**.

**IT IS SO ORDERED this 3rd day of April 2019.**

/s/ Barry A. Bryant

HON. BARRY A. BRYANT  
UNITED STATES MAGISTRATE JUDGE